

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

FILED
NOV 22 2016
Clerk, U.S. District Court
District Of Montana
Missoula

RAY DEAN WILSON,

Petitioner,

vs.

SECOND JUDICIAL COURT,
VIRGINIA HILL, et al.,

Respondents.

CV 16-79-H-DLC-JTJ

ORDER

United States Magistrate Judge John Johnston entered his Order, Findings and Recommendations in this matter on October 24, 2016, recommending denial of Petitioner Ray Dean Wilson's motion for summary judgment and his application for writ of habeas corpus under 28 U.S.C. § 2241. The parties failed to timely object to the Findings and Recommendations, and so waived their right to de novo review of the record. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been

committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Having reviewed the Findings and Recommendations, the Court finds no clear error in Judge Johnston’s conclusion that Wilson’s motion for summary judgment and his habeas petition should be denied as moot. The basis for these motions was Wilson’s involuntary commitment to the Montana State Hospital. Wilson, however, has been released from the Montana State Hospital. Thus, his claim that the facility is restraining his freedom is now moot.

Accordingly, there being no clear error in Judge Johnston’s Findings and Recommendations, IT IS ORDERED that:

(1) Judge Johnston’s Findings and Recommendations (Doc. 16) are ADOPTED IN FULL.

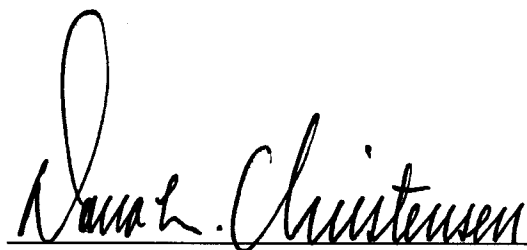
(2) Wilson’s motion for summary judgment (Doc. 4) is DENIED.

(3) Wilson’s petition (Doc. 1) is DENIED as moot.

(4) The Clerk of Court is directed to enter, by separate document, a judgment of dismissal.

(4) A certificate of appealability is DENIED.

Dated this 22nd day of November, 2016

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large, looped initial "D".

Dana L. Christensen, Chief Judge
United States District Court